

NOTE: This sample is designed so that the user can choose portions that apply to their particular situation. Certain provisions may not be appropriate for every situation as written and will require changing.

Typical Standard Contract Provisions (revised 4/16/03)

Every municipal contract should be carefully written to ensure that it accurately describes the rights and duties of the parties. Here are examples of typical standard contract provisions which can be used in various municipal contracts, where appropriate.

Section ____. Compensation; Method of Payment.

- A. Subject to the Contractor's satisfactory performance, the City shall pay the Contractor no more than _____ Dollars (\$_____) in accordance with this section.

(NOTE: Select the appropriate payment option(s) from the following:)

- B. The City shall pay the Contractor \$_____ per hour of time actually expended to perform under this Contract.
- B. The City shall pay the Contractor for services performed in accordance with the schedule of professional fees attached as Appendix B and incorporated herein by reference for services actually performed under this contract.
- B. The City shall pay the Contractor in accordance with the progress payment schedule attached as Appendix B and incorporated herein by reference.
- B. The City shall pay the Contractor one lump sum payment in the amount of _____ Dollars (\$_____) after the Contractor satisfactorily completes all of its performance.
- B. The City shall pay the Contractor by periodic payments as follows:
- B. The City shall, in addition to the monetary compensation agreed to, provide the Contractor with _____. (e.g.) The City shall provide the Contractor, in its performance of this contract, with office space, materials and photocopying during the time the Contractor is in the City. The City may, at its option, provide office equipment if it is available.
- B. The City shall pay the Contractor for actual costs reasonably incurred by the Contractor to perform under this contract. As used in this section, "actual costs" mean:

(NOTE: Choose one of the times shown in [Brackets] below:)

- C. [*Each month; At the conclusion of each phase of the work for which payment is due; Upon final acceptance of the work by the Administrator*] the Contractor shall present a bill to the Administrator describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator.
- D. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this Section.

Section _____. Termination of the Contractor's Services.

The Contractor's services may be terminated:

- A. By mutual consent of the parties.
- B. For the convenience of the City, provided that the City notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
- C. For cause, by either party, where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to cure the default within thirty (30) days after receiving the notice.

Section _____. Duties upon Termination

- A. If the City terminates the Contractor's services for convenience, the City shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall not exceed the total compensation allowable under Section _____. All finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of the City.
- B. If the Contractor's services are terminated for cause, the City shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by the City because of the Contractor's failure to perform satisfactorily. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of the City at its option. Payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under this contract.
- C. If the Contractor receives payments exceeding the amount to which it is entitled under subsection A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.
- D. The Contractor shall not be entitled to compensation under this section until the Contractor has delivered to the Administration all documents, records, work product, materials and equipment owned by the City, related to this contract and requested by the Administrator.
- E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.
- F. If a final audit has not been performed before the Constructor's services are terminated, the City may recover any payments for costs disallowed as a result of the final audit.
- G. Except as provided in this section, termination of the Contractor's services under Section _____ does not affect any other right or obligation of a party under this contract.

Section _____. Insurance.

A. The Contractor shall maintain in good standing the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with proof of insurance in accordance with subsection B of this section in a form acceptable to the City.

B. The Contractor shall provide the following insurance:

1. Workers' compensation and employer's liability coverage as required by Alaska law.
2. Comprehensive general liability, including contractual and personal injury coverage -- \$_____ per occurrence.
3. Comprehensive automobile liability -- \$_____ per accident.
4. Excess liability or architects or engineers professional liability, if applicable, in the amount of \$_____.

(NOTE: Review specific policy limits with your insurance broker.)

C. Each policy of insurance required by this section shall provide for no less than thirty (30) days advance notice to the City prior to cancellation.

Section ____ . Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract without any liability for work performed.

Section ____ . Ownership; Publication, Reproduction, and Use of Material.

- A. Except as otherwise provide herein, all data, documents and materials produced by the Contractor under this contract shall be the property of the City, which shall retain the exclusive right to publish, disclose, distribute, or otherwise use in whole or in part any such date, documents or other materials. Exclusive rights shall not be attributed to portions of such material presently in the public domain or which is not subject to copyright.
- B. Equipment purchased by the Contractor with contract funds shall be the sole property of the City marked and inventoried as such with a copy of the inventory forwarded to the City.

Section ____ . Notices.

Any notice required pertaining to the subject matter of this contract shall be mailed by prepaid first class registered or certified mail, return receipt requested of the following addresses:

The City: _____

Contractor: _____

Section ____ . Contract Budget.

In connection with its performance under this contract, the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section ____ . Force Majeure.

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach thereof.
- B. As use in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the Contractor, which delays the completion of this contract, including without limitation:
 - 1. Any interruption, suspension, or interference resulting solely from the act of the City or neglect of the City not otherwise governed by the terms of this contract.
 - 2. Strikes or work stoppages.
 - 3. Any interruption, suspension, or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests, or restraints of government and people, civil disturbances or similar occurrences.
 - 4. Order of court, administrative agencies or governmental officers other than the City.
 - 5. Suspension, termination or interruption of governmental licenses, consents, authorization, or approvals.

Section ____ . Financial Management System.

The Contractor shall establish and maintain a financial management system that:

- A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;
- B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;
- C. Effectively controls and accounts for all municipal funds and contract property;
- D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
- E. Allocates administrative costs to direct sales service delivery units;
- F. Minimize the time between receipt of funds from the City and their disbursement by the Contractor;
- G. Provides accounting records supported by source documentation; and

- H. Provides a systematic method assuring the timely and appropriate resolution of audit funds and recommendations.

Section ____ . Funding Requirements.

In the event that any funding source for this contract should impose additional requirements upon the City for the use of those funds, the Contractor agrees to abide by these additional requirements immediately upon receipt of written notice therefor from the City.

Section ____ . Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract if:

- A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefor.
- B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
- C. Every subcontract in the amount exceeding \$1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

Section ____ . Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of the City. The City may administer the contract and monitor the Contractor's compliance with its obligations hereunder. The City shall not supervise or direct the Contractor other than as provided in this section.

Section ____ . Nondiscrimination.

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status; or mental or physical handicaps. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical handicap.
- C. The Contractor shall include the provisions of subsections A through B of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor under this contract.

- D. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination.

Section ____ . Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules, and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section ____ . Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce any and every provision hereof.

Section ____ . Amendment.

- A. This contract shall only be amended, modified, or changed by a writing, executed by authorized representatives of the parties, with the same formality as this contract was executed and such writing shall be attached to this contract as an appendix.
- B. For the purpose of any amendment, modification, or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor (Title of position)

Contractor (Title of position)

City of (Title of position)

- C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section ____ . Jurisdiction; Choice of Law.

Any civil action arising from this contract shall be brought in the Superior Court for the _____ Judicial District of the State of Alaska at _____. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

Section ____ . Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

Section ____ . Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are not promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section ____ . Liability.

The Contractor shall indemnify, defend, save, and hold the city harmless from any claims, lawsuit or liability, including attorney's fees and costs, allegedly arising out of loss, damage or injury to persons or property occurring during the course of or as a result of the Contractor's performance pursuant to this contract.

Section ____ . Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as the City shall deem necessary, make available to the City for examination all of its records with respect to all matters covered by this contract for a period of time ending three years after the date the Contractor is to complete performance in accordance with the special provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract to the City in such a form and at such times as the City may reasonably require. The Contractor shall permit the City to audit examine, and make copies of such records, and to make audits of other data relating to all matters covered by this contract. The City may, at its option, permit the Contractor to submit its records to the City in lieu of the retention requirements of this section.

Section ____ . Availability of Funds.

This contract is subject to the availability of funds lawfully appropriated for its performance.

WITNESS the parties have signed the foregoing contract on the day and year shown below.

FOR THE CITY OF _____

[Title of authorized signatory]

STATE OF ALASKA)
) ss.
_____ Judicial District)

On this the ____ day of _____ 20__ before me came _____, known to me to be the person whose signature appears above, acknowledges the contents of the above document and his authority to sign the same on behalf of the City of _____..

Notary Public for Alaska
My Commission Expires: _____

FOR THE CONTRACTOR [Name of business]_____

[Title of authorized signatory]

STATE OF ALASKA)
)ss.
_____ Judicial District)

On this the _____ day of _____, 20____, came before me
_____ known to me to be the person whose signature appears above,
who acknowledged the contents of the above document and his authority to sign the
same on behalf of the lessee

Notary Public for Alaska
My Commission Expires: _____